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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
Sixty-seventh session

Summary record of the 1517th meeting
Held at the Palais des Nations, Geneva, on Thursday, 13 July 2017, at 3 p.m.

Chair: Ms. Leinarte

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined third and fourth periodic reports of the Niger (*continued*)
(CEDAW/C/NER/3-4; CEDAW/C/NER/Q/3-4 and Add.1)

1. *At the invitation of the Chair, the delegation of the Niger took places at the Committee table.*

Articles 10 to 14 (*continued*)

2. **Ms. Haidar** said that, in spite of numerous provisions in the Constitution of the Niger, the Labour Code and conventions of the International Labour Organization (ILO) prohibiting discrimination against women in the workplace, 97 per cent of active women worked in the informal sector and fewer than 1 per cent were formally employed in the private sector, according to figures from 2013. Furthermore, women still required permission from their husbands to work. She would like such inequalities to be tackled as a priority in the country's implementation of the 2030 Agenda for Sustainable Development. She would welcome information on the regulations adopted to implement the new Labour Code in terms of equality and non-discrimination, and on the measures taken to raise awareness of the new provisions among workers and employers. She would like the delegation to explain the progress made since 2012 in translating de jure equality into de facto equality, and to submit the relevant statistics disaggregated by sex. She also wished to know whether the State party would consider introducing temporary special measures to increase the number of women in the formal labour market, particularly the public sector.

3. It was heartening to see that article 45 of Law No. 2012-45 prohibited the abuse of authority to obtain sexual favours, but the prohibition should be extended to any kind of sexual conduct that created an intimidating, hostile or humiliating environment for the recipient; also, the article should apply not just to employers or superiors, but also to colleagues, clients and anyone else in the workplace. She wished to know what specific measures had been taken in conjunction with workers' and employers' organizations to combat workplace harassment, and what remedies, procedures and penalties were available in sexual harassment cases.

4. Although there was no set list of jobs that women were prohibited from doing, article 109 of Act No. 2012-45 was often interpreted as banning women from certain jobs based on stereotypes. She would appreciate an explanation as to how the Government ensured that such provisions were applied solely to protect the reproductive capacity of women and the health of pregnant women and their unborn child. She also wished to know how workers with family responsibilities were protected from termination of employment.

5. **Ms. Hofmeister** said that it would be helpful to have information on the practice of female genital mutilation in the country. In particular, she wished to know how the health-care system dealt with the physical and psychological problems faced by women who had suffered female genital mutilation, and how many babies died following the procedure. She also wished to know what financial burden female genital mutilation placed on the State party's health-care budget.

6. Given the high rates of maternal and child mortality and the low life expectancy of women, she would welcome comprehensive data in that regard. She would also appreciate information concerning the medical aspects of sexual and reproductive rights, namely: the fertility rate and access to contraceptives in rural areas; safe abortions for all women who needed them; early motherhood; and breastfeeding. Information on specific health-care programmes for sex workers and victims of human trafficking would also be useful.

7. She would like the delegation to comment on the State party's policy towards HIV/AIDS patients, and whether it incorporated a gender perspective. She also wished to know whether there were measures to protect and care for orphans and children living in poverty, and she would welcome information on measures to tackle malnutrition among women, especially mothers. Furthermore, she would like the delegation to state how the

State party combated cancer, what prevention programmes were in place, and how the programmes were implemented in practice. Information on the new Health Care Development Plan would be appreciated.

8. **Ms. El Back** (Niger) said that a strategy to increase the enrolment rate of girls was in place and significant progress had been made: the education rate among girls had increased by 8 percentage points between 2012 and 2016, and the enrolment rate of girls in primary education had increased by almost 30 percentage points over the same period. The Government had announced that education would be free of charge, and school meals were provided to encourage school attendance, particularly among nomadic peoples. No girls had been excluded from school for being pregnant; there were cases where girls had voluntarily left school, but they had later returned to complete their studies.

9. **Mr. Hachimou** (Niger) said that the number of female students in higher education had increased tenfold between 2005 and 2015. With the support of its partners, most notably the Economic Community of West African States, the Government provided bursaries to girls from vulnerable families to increase enrolment and promote attendance among those groups.

10. **Ms. El Back** (Niger) said that the State party's labour law did not discriminate between the sexes: women were paid the same as their male counterparts for equal work. The informal sector was a problem since the banking system had not been open to women. However, a savings and credit union, the Mutuelle d'Epargne et de Crédit des Femmes, had been set up specifically for the female population. Many women had set up accounts and were thus able to work in the formal sector.

11. **Mr. Hachimou** (Niger) said that women did not need their husband's permission to enter the labour market under the Labour Code.

12. **Ms. Mounkeila** (Niger) said that the right to nourishment was enshrined in the 2010 Constitution. The country was making efforts to reduce the rate of mortality due to acute malnutrition among children. A vast network of almost 1,000 centres for severe cases of malnutrition, and a further 1,000 for more moderate cases, was in place. Furthermore, the "Nigeriens feeding Nigeriens" initiative provided funding to address the issue.

13. Measures had been taken to ensure that care and prevention concerning HIV/AIDS, and prevention and screening for cancer, were free of charge. The State party was thus able to manage those health concerns, although, due to financial constraints, it was not able to maintain a free and universal health service. A number of specialist centres had been set up to prevent mother-to-child transmission of HIV. Action had been taken to raise awareness and change behaviour in that regard.

14. **Mr. Hachimou** (Niger) said that the life expectancy of women was in fact higher than that of men. A centre for cancer control, which would provide chemotherapy and radiotherapy for patients, had been set up with support from the International Atomic Energy Agency (IAEA). The President of the Niger would inaugurate the centre before the end of August 2017.

15. A law was already in place to prevent the stigmatization of those living with HIV/AIDS, and significant progress had been made since the outbreak of the epidemic, with the prevalence rate having fallen significantly between 1987 and 2017. Health consultations for pregnant mothers and children under 5, as well as caesarean sections, were free of charge as part of efforts to reduce the neonatal mortality rate.

16. **Mr. Ousseini** (Niger) said that sexual harassment was prohibited under the Labour Code and article 281 (1) of the Penal Code. The courts applied penalties for those offences regardless of gender. Abortion was illegal in the country, although the procedure could be carried out legally with the approval of the authorities where the pregnancy seriously endangered the life of the mother. The purpose of article 109 of the Labour Code was in fact to protect women by prohibiting forms of work that could be hazardous to their physical or mental health.

17. **Ms. El Back** (Niger) said that there was a referral centre for dealing with obstetric fistula, where comprehensive care and treatment was provided, with NGO support.

18. **Ms. Chalal** said that access to health care posed a major challenge for rural women, who often had to walk five kilometres to the nearest health centre. She would welcome data on the distribution of health centres throughout the country.

19. **Ms. Haidar** said that she would appreciate information on the work of the Labour Inspectorate and the role it played in boosting the presence of women in the labour market. She also wished to know whether the State party would consider using temporary special measures to increase the representation of women, at least in the public sector.

20. **Ms. Schulz** said that she would like clarification as to whether abortion was legal solely when the pregnancy endangered the mother's life, or also when the fetus was malformed. Studies showed that criminalization of abortion did not stop the practice, but rather raised risks to women who did not want to carry the baby to term. She wished to know whether that was a health issue in the country, and whether there were plans to relax legislation to prevent problems associated with clandestine abortions.

21. **Ms. Song** said that, given the large young population, she wished to know whether sex education was provided in schools. She was concerned that the illiteracy rate remained high in spite of the Government's efforts to reduce it, and she wondered whether skills training and poverty reduction measures were part of the literacy strategies for women. She would also like the delegation to state whether there was gender stereotyping in school textbooks and, if so, what had been done to address it. Did teachers receive training on gender issues?

22. **The Chair**, speaking in her capacity as an expert, said that she would appreciate figures on how many women were currently in prison for having had an illegal abortion, and she also wished to know who would report women to the authorities for having had an illegal abortion.

23. **Ms. El Back** (Niger) said that the Government was implementing the Health Care Development Plan — transforming local dispensaries into integrated health centres — and recruiting physicians to work in rural areas that had previously lacked health personnel. A significant number of midwives had been assigned to rural areas, where they took responsibility for various aspects of women's health care. Concerning sex education, outreach initiatives had been developed that aimed to increase children's and adolescents' awareness and instil values that would be useful to them in their lives. The École des Maris ("School for Husbands") initiative was widely recognized as bringing benefits to families by teaching men about family planning and reproductive health and encouraging them to attend antenatal and postnatal consultations and childbirth. The initiative had led to a significant reduction in the number of births taking place in the home.

24. **Mr. Hachimou** (Niger) said that in relation to the distances travelled to the nearest health centre, the Committee should take into account that the Niger was a vast country measuring more than 1.26 million square kilometres. The Agadez Region, making up the northern third of the country, was a desert inhabited by nomadic peoples where health centres were scarce. However, residents of southern regions did not have to travel more than fifteen kilometres to receive health care. Each region had a large mother-and-child centre providing antenatal and delivery care and treatment for malnourished children.

25. **Mr. Ousseini** (Niger) said that under Act No. 2006-16 of 21 June 2006, abortion was permitted in cases of incest, rape and serious danger to the woman's health, failing which it was punishable under article 295 et seq. of the Penal Code.

26. **Ms. Tampone** (Niger) said that while civil service jobs were filled through a competency-based competitive examination process, private-sector recruiters often specifically encouraged female candidates to apply. In the national education system, some textbooks had been removed from circulation in order to tackle stereotypes and the stigmatization of women. Classes on reproductive health were provided to secondary school students.

27. **Ms. Haidar** said that the Committee welcomed the progress achieved in the area of women's education but did not accept that a competency-based recruitment process precluded the adoption of temporary special measures that would allow women to enter civil service careers.

28. **Ms. Chalal** said that she wished to know whether abortion was prohibited in the case of life-threatening fetal abnormality.

29. **Mr. Ousseini** (Niger) said that the law was strictly implemented and only permitted abortion in the three cases mentioned previously. The abortion of malformed fetuses was not authorized; moreover, he believed that health professionals in the Niger would encounter difficulties in determining the viability or non-viability of the fetus with the technical means at their disposal.

30. **Ms. Schulz** said that the Human Rights Committee had twice ruled that forcing a woman to carry a non-viable fetus to term was a violation of the woman's rights and a form of torture or inhuman, cruel or degrading treatment.

31. **Ms. Haidar** said that she welcomed the State party's efforts to strengthen women's autonomy by improving their access to loans and other forms of credit, providing them with labour-saving devices and enhancing their capacity and leadership. However, the feminization of poverty continued to have a direct impact on women's health — notably in terms of a high maternal mortality rate — and on their education and literacy, especially in remote areas. Lack of access to land was a problem that intersected with other constraints, such as those relating to inheritance and early marriage, while single women encountered difficulty in accessing housing. Women were underrepresented in decision-making bodies, accounting for only 15 deputies in Parliament. The feminization of poverty also meant that women and girls tended to engage in small-scale, poorly paid activities in agriculture and the informal sector or domestic work, where they were often exploited. In that regard, she wished to know how the lack of social protection and pensions could be remedied for the bulk of the female working population. The Committee was troubled by reports that married women encountered barriers to their economic empowerment, such as not being able to open a bank account without their husband being informed, while succession arrangements still had a disproportionately negative impact on women. Given that the system for the allocation of social benefits to government employees appeared to discriminate against women, she would like the delegation to comment on the provisions of Act No. 2007-26, which determined entitlements to family benefits and allowances.

32. **Ms. Ameline** said that the transition to gender equality should be accompanied by an environmental transition and in that regard she noted that the Niger had strongly advocated the binding nature of the Paris Agreement. The transition should favour a just, inclusive and sustainable form of development in which women were actors as well as beneficiaries, while incorporating new mechanisms that respected both the Paris Agreement and the Sustainable Development Goals. In that context, she recalled that Lake Chad had once been the world's largest source of fresh water, and although in recent years it had diminished in extent, she wondered whether the Government of the Niger could enlist the help of women and the cooperation of the international community in order to preserve the lake as a symbol of sustainable development, while also addressing the security concerns in the region.

33. **Ms. Jahan** said that she commended the State party for the "Nigeriens feeding Nigeriens" initiative, the Economic and Social Development Programme and the Water Code, the Rural Code and the Pastoral Code, all of which aimed to overcome the problems facing the rural population. However, she wished to know whether the Government had developed a follow-up mechanism to ensure that those projects and programmes were effectively implemented with a clearly defined gender perspective. How many women had benefited from the solidarity fund established for rural women? Although poverty had decreased, the Committee was concerned that discrimination against women remained entrenched in rural areas and therefore would appreciate receiving information on efforts to pursue a gender-sensitive poverty reduction strategy and to implement agricultural and rural development policies that included women.

34. In the sphere of women's decision-making, she asked whether the new quota system for electoral and nominal posts would apply to traditional chieftains, who appeared to be exclusively male. She was concerned that some legislation had inbuilt inconsistencies that negated the principle of gender equality. For example, the guiding principles of the Rural Code established the principle of equality in access to natural resources, yet also stated that

"the rights over natural resources enjoy equal protection, whether they derive from customary or written law", despite the fact that certain customs prevented women from accessing land through succession. Did the State party plan to undertake a thorough review process to eliminate such legislative discrepancies?

35. In light of the concerns expressed about the harmful environmental impact of natural resource exploitation, she asked whether steps had been taken to strengthen safety and protection measures for the exploitation of natural resources, to prevent extractive industries from operating in indigenous territories without the consent of communities and to ensure that communities were adequately compensated in the event that activities were authorized.

36. Regarding the prison system, information should be provided on measures to separate pretrial detainees from convicts and to allow the National Human Rights Commission to monitor conditions and the implementation of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). The State party should indicate whether it intended to adopt a new action plan to combat discrimination against women and girls and explain what measures were in place to meet the needs of women and girls with disabilities, including persons with albinism. It should also state the reason for the slow progress of the bill on the protection of the elderly and indicate whether that bill incorporated a gender perspective.

37. Lastly, recognizing that drought and desertification had taken a disproportionate toll on rural women, she wondered what steps had been taken or were envisaged to include women in the country's climate change adaptation and disaster management efforts, including in the relevant decision-making processes.

38. **Ms. El Back** (Niger) said that for more than 20 years the Government had implemented a national strategy aimed at improving the living conditions of rural women. To that end, the Government and its development partners had launched revenue-generating activities and microcredit schemes and had put in place a decentralized financial mechanism that channelled resources to rural areas.

39. Concerning land management, several projects had been set up under the country's population programme in order to involve rural women in land restoration and provide them with an income. The Ministry of Environment and Sustainable Development had implemented awareness-raising campaigns designed to make the environment safer, to prevent logging and to empower women.

40. **Mr. Hachimou** (Niger) said that the Government had adopted the national social protection policy in 2011 and since 2015 had been working on a bill to bolster social protection. Originally a civil society initiative, the Ministry for the Advancement of Women and Protection of Children had assumed responsibility for drafting and submitting the bill, which was currently under consideration by the National Assembly.

41. Since 2014, the Niger had worked with Cameroon, Ethiopia, Malawi and Rwanda to implement the Gender, Climate Change and Agriculture Support Programme under the aegis of the New Partnership for Africa's Development (NEPAD). Under that programme, an estimated US$ 13 million had been earmarked for projects in the Niger to support women in confronting the damaging effects of climate change. The Government had negotiated with NEPAD, development partners and the Conference of the Parties to the United Nations Framework Convention on Climate Change to mobilize resources and would organize a round-table meeting for that purpose in September 2017.

42. The solidarity fund for rural women enabled the purchase of equipment to alleviate the domestic tasks of rural women and promoted revenue-generating activities whereby microfinance institutions allocated funds to women's groups in rural villages with a view to generating additional resources.

43. Girls with disabilities were not marginalized but were included in the education system from the outset, while equality laws ensured that children with disabilities and non-disabled children were treated in the same way. Persons with albinism, although few in number, were treated as equals and did not suffer from threats or stigmatization.

44. The chieftainship system was a hereditary patriarchy and consequently there were no female chieftains. The political system did not interfere in such customs, which were a respected tradition.

45. **Ms. El Back** (Niger) said that, while village chiefs were always men, all villages had high-ranking women, and other women and girls, particularly the daughters of chiefs, acted as counsellors to the chiefs and were able to wield considerable influence.

46. **Mr. Garba** (Niger) said that 15 per cent of income from mining was given to the areas where it was carried out. Although women formed a very low percentage of the workforce in extractive industries, many women benefited from the economic impact of mining at the local level. Under the framework law on the environment, all persons had the right to a healthy environment, and the principles of prevention, precaution, responsibility, subsidiarity and participation in environmental protection were upheld.

47. **Ms. Mounkeila** (Niger) said that the country had ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2008. Persons with disabilities had long been entitled to free medical consultations and, when necessary, hospitalization. In addition, various measures were in place to support the education of children with disabilities.

48. **Ms. Jahan** said that she wished to know whether the Bangkok Rules were applied and whether there were any provisions for the National Human Rights Commission to monitor the conditions of women in detention, particularly women in pretrial detention held with convicted prisoners.

49. Women migrating from rural to urban areas often lived in poverty in temporary housing owing to a lack of job opportunities, and could fall victim to forced prostitution or violence. She wished to know what measures had been taken to address the situation of such women.

50. **Mr. Ousseini** (Niger) said that although there were no separate prisons for men and women, female and male detainees were held in separate areas. For both genders, persons awaiting trial and persons who had been sentenced were held separately. Minors were also detained in a separate area.

51. There was no legal obstacle to women's access to land rights. However, as traditional customs dictated that a woman's husband was responsible for her care, she was not considered to require access to land. Nonetheless, many women had successfully pursued legal action to obtain land that they had inherited.

52. Cases of abortion were addressed in the same manner as all other crimes. The police and criminal prosecution authorities would be involved and investigations conducted.

Articles 15 and 16

53. **Ms. Hayashi** said that she would appreciate information on laws, policies and customs that prevented women from enjoying their rights to free movement and choosing their place of residence. She requested clarification as to what legislation would need to be repealed to guarantee those rights. Concerning guarantees of women's rights to marry and end a marriage, to decide on the number and spacing of their children, and to choose their family name and occupation, she asked whether the draft personal status code had been abandoned since its rejection by parliament.

54. It appeared that under both the Civil Code and Islamic law, women had limited legal capacities, in contravention of the provisions in the Constitution of the Niger on equality before the law. She would appreciate information on action taken by the State party to ensure adherence to those provisions, not to mention compliance with its obligation to eliminate discrimination under the Convention.

55. Despite the provisions on consent for marriage in the Civil Code, under customary law there was no minimum age for marriage or any requirement for women to consent to their future spouses. She commended the State party for its national and regional campaigns to end early marriage and child marriage, which negatively affected the rights of girls to education, health care and freedom from violence. However, it was crucial for the State

party to consider the immediate adoption of new laws and policies on the subject. Moreover, as there was no legal minimum age for consensual sex, it was impossible to define statutory rape. She requested information on any plans to establish a minimum age of consent for girls. In addition, following the rejection of the draft personal status code, she asked what measures were in place to eliminate discriminatory customary law and practices that negatively affected women's rights to, inter alia, inherit property.

56. **Ms. El Back** (Niger) said that ordinarily a woman would move to her husband's home when they got married. However, the practice varied between communities; Tuareg husbands, for example, moved in with their wives. In other situations, a husband could choose to move to his wife's home if she was wealthier than him. The Government respected the different customs and could not impose new residence rules on communities without their consent.

57. **Mr. Ousseini** (Niger) said that, in cases where customary law violated civil law, judges were able to rule against customs that were considered to violate public order and moral standards. However, such a ruling would depend on the judge's personal views. Customary law varied significantly between regions, whereas civil law could only be modified by the National Assembly. In cases of inheritance and succession, couples were free to choose whether they wished civil law or customary law to be applied.

58. Regarding a woman's right to choose her place of residence, couples were free to choose their own home. A man might decide to move in with his wife if, for example, she was a widow with inherited property or if she was divorced and had her own home.

59. **Ms. Hayashi** said that she would appreciate a clarification of the law giving precedent to customary law in matters such as inheritance and place of residence. She asked whether customary law could only be superseded by civil law if the customary law was considered to violate public order.

60. **The Chair**, speaking in her capacity as an expert, asked whether sexual activity outside wedlock was punished under customary law or the Penal Code.

61. **Mr. Ousseini** (Niger) said that sexual activity outside wedlock was prohibited by both customary and Islamic law, but not by written legislation. Women under 21 years of age were considered minors and, even if they consented to sex, their sexual partners could be prosecuted for rape or abuse of a minor.

62. Customary law in all areas, including individual legal capacity and inheritance, could be superseded by civil law if the custom was considered to violate public order or morals. Individual defendants were free to request implementation of the Civil Code, rather than customary law. In the event that a husband and wife followed contradictory customs, the wife's customs would be applied.

63. **Ms. Chalal** asked how the Government had followed up on the failure to adopt the draft personal status code.

64. **Mr. Ousseini** (Niger) said that the Government was working with civil society representatives to persuade opponents of the draft personal status code to accept it. As only some religious figures supported the code, the Government did not wish to take actions that could cause civil unrest.

65. **Ms. El Back** (Niger) said that the Government of the Niger was working to preserve customs and traditions while keeping pace with modern life. It aimed to make continuous progress to improve women's lives.

The meeting rose at 4.55 p.m.